

**CR No. 2496 of 2016**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CR No. 2496 of 2016**

**Date of Decision: October 30, 2019**

**Amit Kumar**

..... Petitioner(s)

**Versus**

**Jatinder Kumar Sharma**

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Vishal Munjal, Advocate  
for the petitioner.

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**LISA GILL, J.(oral)**

This revision petition has been filed by the petitioner-tenant being aggrieved of the order dated 16.12.2013, passed by the learned Rent Controller, Pathankot, ordering ejectment of the present petitioner from the shop in dispute. The petitioner also challenges order dated 09.11.2015, passed by the learned Appellate Authority, Pathankot, whereby order dated 16.12.2013 has been upheld.

It is pertinent to note at the very outset that on a pointed query regarding possession of the demised premises being with the petitioner or not at this stage, in view of there being no interim order in his favour, learned counsel for the petitioner submits that the petitioner has not contacted him since the filing of this petition in February 2016 and he has no intimation whether the petitioner continues to be in possession of the demised premises or not. Be that as it may, arguments addressed by learned counsel for the petitioner have been heard.

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Respondent-landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of the present petitioner from the shop in dispute on the ground of personal bonafide necessity and on account of change of user. Learned Rent Controller allowed the petition on the ground of personal bonafide necessity while finding no merit in the plea regarding change of user of the premises in question from a general merchant/Muniari shop to a garment shop, without the consent of the applicant-landlord. Appeal preferred by the present petitioner was dismissed by learned Appellate Authority, Pathankot, vide order dated 09.11.2015.

I do not find any merit in the argument raised by learned counsel for the petitioner that personal bonafide necessity of the landlord has not been proved in this case. It is specifically pleaded by the landlord that he requires the premises in question as he is an educated unemployed person having no source of income. It is further pleaded that he has a dependent wife and two children. Two rooms are stated to have been constructed on the first floor of the shop in dispute for the residential purpose, though, the landlord was still residing at Shastri Nagarj, Pathankot in a house taken on rent @ Rs.900/- per month from one Amarjit Singh. It is further stated that the landlord could not shift to his newly constructed house on the first floor due to his inability to start his business in the shop in dispute.

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The argument regarding the availability of an adjoining shop on the northern side raised by the tenant has been rightly negated by both the learned Courts below. It is correctly observed by the learned Rent Controller that the tenant while deposing as RW1 has admitted that 'the second shop belonging to the landlord is the one through which a person has to pass through for access to the residential quarters constructed upstairs. It is the only passage to go to the residential quarters.' The site plan (Ex.P3) attached by the landlord has been admitted to be correct by the petitioner-tenant RW1, who has further admitted that the applicant, his wife and children have started residing in the portion built on the first floor and that the landlord is the only earning member of his family.

It is a settled principle that it is for the landlord to decide regarding the suitability of the premises and he is the best judge of his requirement. Learned counsel for the petitioner is unable to point out any ground what-so-ever, which calls for interference by this Court in the concurrent findings of facts returned by both the Courts below.

It is relevant to note that the Hon'ble Supreme Court in **Hindustan Petroleum Corporation Limited versus Dilbahar Singh (2014) 9 SCC 378** while examining the scope of revisional jurisdiction reiterated that power is indeed a limited one. Pure findings of fact until and unless perverse and opposed to the evidence on record should not be interfered with. It is specifically observed that:

*“The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to reappreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal.”*

Keeping in view of the facts and circumstances of the case, ejectment of the petitioner has been rightly ordered by both the learned Courts below. Both the learned courts below have rendered concurrent findings of fact against the petitioner on a wholesome and proper

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appreciation of evidence on record which warrants no interference in exercise of revisional jurisdiction.

No other argument has been raised.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in impugned judgment dated 16.12.2013, passed by the learned Rent Controller, Pathankot as well as the judgment dated 09.11.2015, passed by the learned Appellate Authority, Pathankot respectively, which calls for interference by this Court in this civil revision petition.

Accordingly, this civil revision petition is dismissed with no order as to costs.

**October 30, 2019**

Sunil

**(Lisa Gill)  
Judge**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No